

**61.607 Maximum disability benefit -- Determination -- Combined payments not increased as a result of legislation -- Annual report by disability recipient.**

Notwithstanding any other provisions of KRS 16.505 to 16.652 or 61.510 to 61.705, a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employee's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay or monthly average pay. The maximum disability benefit shall be determined by the following formula:

- (1) Add the monthly benefit payable to the disabled employee from the Kentucky Retirement Systems and the County Employees Retirement System, using the monthly disability retirement allowance without any reduction due to the selection of an optional payment plan under KRS 61.635 but excluding dependent children's allowances, if any, to his or her monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his or her monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.
- (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his or her final compensation, whichever is greater, his or her disability retirement allowance from the Kentucky Retirement Systems and the County Employees Retirement System shall be reduced to an amount which would cause his or her projected combined monthly benefit to equal one hundred percent (100%) of his or her final rate of pay or his or her final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his or her disability retirement allowance from the Kentucky Retirement Systems and the County Employees Retirement System using the disabled employee's actual total service.
- (3) The system may pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his or her Social Security and workers' compensation benefits until the amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his or her account corrected retroactive to his or her effective retirement date.
- (4) Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date.
- (5) Any disabled recipient whose potential payments from the system were reduced as

provided for in this section shall advise the Authority if his or her payments under the Federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his or her effective retirement date. Upon investigation, if the system determines that the disabled recipient continues to be eligible for disability benefits, the system may increase his or her retirement allowance by adding to his or her payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (2) of this section.

- (6) The amount of combined disability benefit payments made to an individual on or after April 1, 2021, from the Kentucky Retirement Systems or the County Employees Retirement System shall not be increased as a result of the passage of 2021 Ky. Acts ch. 102.
- (7) Subsequent to his or her effective retirement date, each disability recipient who is still eligible to receive disability payments based upon a total and permanent disability that occurred as a direct result of an act in line of duty as defined in KRS 16.505 or a disablement that occurred as a result of a duty-related injury as defined in KRS 61.621, shall annually file on a form or via an electronic method established by the Authority, information on whether payments to the recipient have ceased or began under the federal Social Security Act or Workers' Compensation Act and the Authority shall make any necessary adjustments as provided by this section.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 102, sec. 63, effective April 1, 2021; and ch. 106, sec. 7, effective June 29, 2021. -- Amended 1992 Ky. Acts ch. 240, sec. 31, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 349, sec. 20, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 232, sec. 7, effective July 13, 1984. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Created 1974 Ky. Acts ch. 128, sec. 31.

**Legislative Research Commission Note (6/29/2021).** This statute was amended by 2021 Ky. Acts chs. 102 and 106, which do not appear to be in conflict and have been codified together.

**Legislative Research Commission Note (6/29/2021).** See 2021 Ky. Acts ch. 106, secs. 10, 11, 12, and 13 for information regarding the application of the amendments to this statute made in that Act.